

No. 15-1760

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

CLARK MATERIAL HANDLING CO.,

Plaintiff-Appellee,

v.

TOYOTA MATERIAL HANDLING U.S.A., INC.,

Defendant-Appellant.

**JOINT MOTION FOR LEAVE
TO FILE DEFERRED JOINT APPENDIX**

Pursuant to Rule 30(c) of the Federal Rules of Appellate Procedure, Appellant Toyota Material Handling U.S.A., Inc., and Appellee Clark Material Handling Co. respectfully move for leave to file a deferred joint appendix.

Good cause exists to permit the parties to file a deferred joint appendix in this appeal. This case involved a seven-day jury trial, resulting in a monetary award, trebled by the court, together with pre-judgment interest and attorneys' fees, totaling \$11,325,903, and the trial and pre-trial record is voluminous. The parties anticipate that the parties' pre-briefing designations of those parts of the record to include in the joint appendix likely would be voluminous, resulting in an unwieldy number of joint appendix volumes, and will not serve the interest of the Court. A deferred appendix, limited to the parts of the record identified by the

parties as relevant to the briefed issues, will likely be far more streamlined and accessible for the Court, as well as more efficient for the parties.

Therefore, this Court should grant the parties' joint motion and permit the parties to file a deferred joint appendix in accordance with Fed. R. App. P. 30(c) and Local Rule 31(d)(4).

Respectfully submitted,

s/ Adam H. Charnes

Adam H. Charnes

KILPATRICK TOWNSEND &

STOCKTON LLP

1001 West Fourth Street

Winston-Salem, NC 27101

Telephone: (336) 607-7382

Facsimile: (336) 607-7500

Counsel for Appellant

s/ Natalma M. McKnew

Natalma M. McKnew

SMITH MOORE

LEATHERWOOD LLP

2 West Washington Street, #1100

Greenville, SC 29601

Telephone: (864) 751-7608

Facsimile: (864) 751-7800

Counsel for Appellee

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2015, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System, which will send notice of such filing to all registered CM/ECF users

s/ Adam H. Charnes _____

Adam H. Charnes

KILPATRICK TOWNSEND &
STOCKTON LLP

1001 West Fourth Street

Winston-Salem, NC 27101

Telephone: (336) 607-7382

Counsel for Appellant